

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE HEALTH & WELFARE FUND OF THE
UNITED FOOD & COMMERCIAL WORKERS
LOCAL 2013, AFL-CIO BY ITS TRUSTEES LOUIS
MARK CAROTENUTO and STANLEY FLEICHMAN,

Plaintiffs,

- against -

COUNTY AGENCY INC.,

Defendant.

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ROSLYNN R. MAUSKOPF, United States District Judge.

ORDER ADOPTING
REPORT AND RECOMMENDATION
14-CV-5160 (RRM) (MDG)

Plaintiffs, the Trustees of the Health & Welfare Fund of the United Food & Commercial Workers Local 2013, AFL-CIO (“the Fund”), commenced this action against defendant, County Agency Inc., alleging violations of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, *et seq.* (“ERISA”), as amended by the Multiemployer Pension Plan Amendment Act of 1980, 29 U.S.C. §§ 1381, *et seq.* The Fund – a multi-employer benefit plan within the meaning of ERISA – provides health benefits to eligible employees on whose behalf employers make contributions to the Fund pursuant to a collective bargaining agreement. County Agency Inc. – an employer within the meaning of ERISA – is a signatory to the collective bargaining agreement with the Fund. The Fund alleges that County Agency Inc. failed to submit monthly benefit contributions based on the number of its covered employees for the periods of February 2012 and December 2013 through June 2014. After the filing of the complaint, County Agency Inc. paid a portion of the outstanding contributions, but failed to pay the full outstanding debt.

The Fund moved for default judgment against County Agency Inc. (Doc. No. 8.)
Magistrate Judge Marilyn D. Go issued a Report and Recommendation, recommending that default

judgment be granted, and awarding certain damages as set forth in the R&R. (Doc. No. 17.) To date, no party has filed any objections to the R&R.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, it is hereby ORDERED that the Fund be awarded judgment against defendant County Agency Inc. in the amount of \$21,254.29, including unpaid contributions of \$15,525.00, pre-judgment interest of \$461.79 through October 9, 2015 and at a daily rate of \$0.64 thereafter until the entry of judgment, liquidated damages of \$3,105.00, attorneys' fees of \$1,687.50 and costs of \$475.00.

The Clerk of Court is directed to enter judgment pursuant to this Order, send a copy of this Order and the accompanying judgment to defendant County Agency Inc., and close the case:

SO ORDERED.

Roslynn R. Mauskopf

Dated: Brooklyn, New York
April 13, 2016

ROSLYNN R. MAUSKOPF
United States District Judge